

Indian Constitution, Features and Significant Provisions

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What are the salient features of the Indian Constitution?

The Republic of India is governed in terms of the Constitution of India, which was adopted by the Constituent Assembly. The salient features of the Constitution are as follows:

Longest written Constitution

The Constitution of India is the longest written Constitution. The following factors have contributed to the bulk of the Constitution:

- It incorporates the experience of all leading Constitutions.
- It prescribes a constitution for the union as well as for the states.
- It incorporates detailed provisions regarding Center-state relations.
- It includes justifiable and non – justifiable rights in the form of Fundamental rights and Directive Principles of State Policy.
- It contains special provisions to meet regional problems.

Sovereignty resides in the people

- The **preamble** of the constitution declares that the constitution of India was adopted and enacted by the people of India.
- People are the **custodians** of the republic in India.
- The ultimate source of power and authority in India is the people, not the government or any other entity.

A unique blend of rigidity and flexibility

- Certain provisions of the Indian Constitution are difficult to change (rigid), while others can be easily amended (flexible).
- The rigid provisions, such as the **federal distribution of power**, can only be amended with a **special procedure** that requires a two-thirds majority vote in both houses of Parliament and **ratification** by half of the **state legislatures**.
- The flexible provisions, such as the administrative and economic provisions, can be easily amended by a simple majority vote in Parliament.

Drawn from various Sources

- The Indian Constitution is a compilation of various sources and influences, reflecting the diverse experiences and aspirations of the Indian people.
- The Constitution of India is drafted by borrowing provisions from various sources like the Constitutions of various other Countries, the Government of India Act of 1935, etc. For example,
 - From the **American Constitution: Written Constitution, Fundamental Rights, Supreme Court, Judicial Review**.
 - From **Australian Constitution: Concurrent List, Cooperative Federalism**.

Uniformity in Basic Administration

- There is uniformity in most important administrative matters.
- This uniformity helps to promote national integration, equal distribution of resources and opportunities, and equal protection under the law for all citizens.
- Examples: single **integrated judicial system, uniformity in civil and criminal laws, All India services**.

Revolutionary in nature

- The Indian Constitution is considered revolutionary in nature, as it introduced a number of **reforms** and changes that broke with India's **colonial past** and established a new, democratic, and secular system of government.
- It has abolished several unjust practices and, at the same time, has provided special opportunities for the upliftment of the weaker sections.

Affirmative action

- Affirmative action, also known as **positive discrimination**, is a feature of the Indian Constitution that provides special provisions and protections for historically marginalized and disadvantaged groups, such as scheduled castes and tribes (Dalits) and other backward classes (OBCs).
- Some of the affirmative actions include **Reservations** in Educational Institutions and in Public Employment.
- These are meant to ensure the development and welfare of the weaker sections of society and bring them on par with the Indian mainstream.

Lawyer's paradise

- The phrase "Lawyer's paradise" is often used to refer to the Indian Constitution as a result of its **comprehensive** and **complex legal framework**.
- The constitution of India is very complex for the common man to understand.
- The complexity gave rise to litigation and constitutional amendments.

What are the significant provisions of the Indian Constitution?

At present, it contains 448 articles in 25 parts, 12 schedules, and 105 amendments (out of 127 Constitution Amendment Bills). The following are the significant provisions-

The Preamble

- The preamble sets the stage for the Constitution. It clearly communicates the intentions of the framers and the purpose of the document. According to the Preamble, India is a Sovereign Socialist Secular Democratic Republic.
- **Sovereign** - India is no more dependent upon any outside authority.
- **Socialist** - State has significant ownership of the means of production and distribution.
- **Secularism** - No religion is recognized as the religion of the state. All religions are treated equally.
- **Democratic** - Form of government that gets authority from the people's will.
- **Republic** - There shall be an elected head of the state who will be the Chief Executive Head.

Fundamental Rights

- The Constitution, in its Part III, provides 6 fundamental rights -
 - Right to **equality** (Articles 14-18)
 - Right to **Freedom** (Articles 19-22)
 - Right **against exploitation** (Articles 23-24)
 - Right to **freedom of religion** (Articles 25-28)
 - **Cultural and Educational Rights** (Articles 29-30)
 - Right to **constitutional remedies** (Article 32)
- The fundamental rights are meant for promoting the idea of **Political Democracy**. They operate as limitations on the state's power. However, they are **not absolute** in nature and are subject to reasonable restrictions.

Fundamental Duties

- The Constitution (**42nd** Amendment Act, 1976) has introduced a Code of "Fundamental Duties" for Citizens forming **Part IV-A** of the Constitution, containing **Article 51-A**.
- The fundamental duties require the citizens to observe certain basic norms of **democratic conduct** and democratic behaviors.
- Like the Directive Principles of State Policy, these duties cannot be judicially enforced.

Directive Principles of State Policy

- Part IV of the constitution deals with **social and economic Rights**.
- They are not justifiable in a court of law. The principles laid down are fundamental in the governance of the country
- They aim at establishing a **welfare state** in India.

Single Citizenship

- Though the Constitution envisaged a dual polity i.e. Center and States, it provides for single citizenship for the whole of India.
- This is unlike the United States of America, where there is the system of double citizenship, i.e., the U.S.A's citizen and a State citizen.
- Every Indian has citizenship throughout the country with the same rights. This provision in the Indian Constitution reinforces the values of equality, unity and integrity.

Parliamentary form of government

- The core principle of a parliamentary government is the responsibility of the Executive to the Legislature consisting of the representatives of the people. (**Article 75**)
- Also, the separation of powers between the Executive and the Legislature is not watertight, but it makes the Executive more responsible and accountable to the Legislature.

The federal structure of government

The nature of the Indian state is federal, in the sense that the powers are distributed between the Union and the state.

- However, The Constitution also has Unitary features making it a unique **Quasi-Federal** Setup.
- It is federal because:
 - The Constitution of India is **written** and **supreme**.
 - It has two sets of government.
 - There is a **division of powers** between the Centre and the States.
 - There is an **independent judiciary**.
- It is unitary because:
 - Indian State is described as a "**union of states**".

- There is **single citizenship**.
- There is a **single integrated judicial and administrative system**.
- There is integrated machinery for elections, and audits.
- State Governors are appointed and removed by the President,
- States depend upon the union's grant-in-aid.
- During an emergency, the system acts like a unitary system.

Systems of local self-government

- Local Self-Governments have been considered as instruments of socio economic transformation at the gross root level. Panchayati Raj is identified as the institutional expression of democratic decentralization in India.
- The idea for organizing village Panchayats as self-government units was provided by the Constitution makers under **Article 40** of Part IV.
- Accordingly, The **73rd** and **74th** Amendment Act, 1992 has inserted **Part IX, Part IX-A**, and the **Eleventh and Twelfth Schedule** in the Constitution.

An independent and Integrated Judiciary

- An independent Judiciary is necessary to secure the philosophical foundations of the rule of law and democracy.
- The Constitution has ensured the complete independence of the Judiciary in matters of appointment administration and finances.
- Although the **Supreme Court** is at the national level, **High Courts** at the state level and **subordinate courts** at the district and lower levels, there is a single hierarchy of Courts. At the top of the hierarchy is the Supreme Court.
- The unified judicial system aims to promote and ensure justice to all the citizens in a uniform manner.

Universal adult franchise

- **Article 326** defines a universal adult franchise as the basis for elections to all levels of the elected government.
- Every eligible citizen above **18 years** of age has been given the right to elect representatives for the legislatures without discrimination or prescribing any qualification based on religion, race, caste, sex, descent, and place of birth or residence alone.

Special attention to Scheduled Areas and Scheduled Tribes

- The **Fifth and Sixth Schedules** to the Constitution give special attention to the needs of the States in North-eastern and Central parts of India.
- The people residing in these areas have a distinct culture that needs to be protected and promoted.
- Therefore, provisions have been made to allow them to manage their local regions.

Emergency provisions

- **Part XVIII** of the Constitution contains emergency provisions (**Articles 352 to 360**) which were envisaged to deal with unforeseen circumstances that may threaten the unity and integrity of our country.
- When the Government employs the Emergency provisions, the politico-administrative system undergoes structural changes.
- The federal structure acquires unitary character during the time of emergency.

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